



COMMONWEALTH of VIRGINIA
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TO: BRIAN MCCORMICK
Regulatory Supervisor
Virginia Department of Medical Assistance Services

FROM: USHA KODURU
Assistant Attorney General

DATE: February 4, 2009

**SUBJECT: Exempt Final Regulations to Incorporate Recommendations Made by the
Regulatory Reform Task Force**

I have reviewed the attached exempt final regulations that incorporate recommendations made by the Attorney General's Regulatory Reform Task. Also included are three other non-Task Force changes that revise outdated language in regulations relating to the Program of All-Inclusive Care for the Elderly and to hospital credit balance reporting. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services ("DMAS") has the legal authority to promulgate the regulations and if the regulations comport with state and federal law.

Based on that review, it is my view that the Director of DMAS, acting on behalf of the Board of Medical Assistance Services pursuant to Va. Code §§ 32.1-324 and 325, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

These amendments incorporate recommendations made by the Regulatory Reform Task Force to the applicable regulations. Based on the foregoing, it is my view that the promulgation of this regulation is exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(3) and (4).

Brian McCormick
February 4, 2009
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If you have any questions, please contact me at 786-4074.

cc: Kim F. Piner, Esquire

Attachment